

**I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2006 (SECOND) Regular Session**

Resolution No. 179 (LS)

As amended on the Floor.

Introduced by:

J. A. Lujan
F. B. Aguon, Jr.
J. M.S. Brown
Edward J.B. Calvo
B. J.F. Cruz
Mike Cruz
Mark Forbes
L. F. Kasperbauer
R. Klitzkie
A. B. Palacios
R. J. Respicio
Ray Tenorio
A. R. Unpingco
J. T. Won Pat

Relative to expressing the sentiments of the people of Guam in support of the Antonio B. Won Pat International Airport Authority, Guam Petition for full approval of foreign carrier access to air routes between Guam and points within the customs zone of the United States.

1 **BE IT RESOLVED BY I MINA'BENTE OCHO NA LIHESLATURAN**
2 **GUÅHAN:**

3 **WHEREAS,** the Antonio B. Won Pat International Airport Authority,
4 Guam requested the U.S. Department of Transportation (the “Department”) to

1 approve expanded air services in a petition filed on February 9, 2006, which was
2 duly scheduled for consideration as Docket No. OST-2006-23918; and

3 **WHEREAS**, the Department issued on August 4, 2006 an “Order to Show
4 Cause” in this matter, describing its tentative decision and inviting parties in
5 interest to comment within fourteen (14) days of the date of service of the Order,
6 or *no later than* August 23, 2006; and

7 **WHEREAS**, the Order tentatively denies a waiver for passenger and cargo
8 cabotage (paragraph 7, and clause 4 of paragraph 2, of tentative findings and
9 conclusions), which would, if granted, allow foreign air carriers to participate in
10 Guam – United States carriage traffic; and

11 **WHEREAS**, non-defense related travel and cargo carriage between Guam
12 and the U.S. has been historically characterized by participating commercial
13 carriers and federal agencies other than the Department as international, rather than
14 domestic in nature; and

15 **WHEREAS**, Guam residents pay unnecessary cost premiums for Guam-
16 U.S. air services protected from a competitive market by cabotage restrictions; and

17 **WHEREAS**, Guam is considered a domestic point by the Department on the
18 basis of its political status as a possession of the United States, despite its
19 geographical location three thousand eight hundred (3,800) miles beyond the
20 customs zone of the United States, and beyond the range of aircraft suitable for
21 efficient use in the domestic market for air service; and

22 **WHEREAS**, in the decades since direct governmental regulation of the
23 domestic market for air transportation services ceased, the demonstrated benefits of
24 a more competitive domestic market for air transportation services have *not* been
25 effectively enjoyed by Guam residents and businesses, through all possible air
26 routes between Guam and other domestic points; and

1 **WHEREAS**, over the same period, the market for air transportation within
2 Southeast and South Asia, and between those regions and North America has
3 expanded tremendously, with further growth expected from orders for long-range
4 aircraft; and

5 **WHEREAS**, air service between Southeast Asia and the United States,
6 whether via Guam or overflying Guam, is offered at lower rates than service on the
7 same or similar aircraft between Guam and the United States, a market anomaly
8 which can be directly attributed to cabotage restrictions, a non-market distortion
9 enforced by the Department; and

10 **WHEREAS**, non-U.S. airlines currently authorized to serve Guam and other
11 U.S. points are eager to competitively offer capacity to meet demand for Guam –
12 U.S. carriage; and

13 **WHEREAS**, access by Guam residents and businesses, and by U.S.
14 Mainland residents and businesses wishing to travel to or expand commerce with
15 Guam, to available competitive travel fares and cargo rates on Guam-U.S. routes
16 that include an intermediary stopover outside the U.S. is prohibited by the same
17 cabotage restrictions; and

18 **WHEREAS**, some travelers with established regional ties surreptitiously
19 circumvent cabotage restrictions by separately purchasing U.S. or Guam-bound
20 round trip passage in an intermediate third country at significant cost savings not
21 available to the typical U.S.-bound Guam traveler or Guam-bound U.S. traveler;
22 and

23 **WHEREAS**, cabotage restrictions raise the cost of access to U.S. goods and
24 services on Guam and thus depresses otherwise rational U.S.-Guam commerce in
25 such diverse goods and services as perishables, medical referrals to specialized
26 U.S. institutions, domestic tourism, domestic skilled and professional labor, and
27 consideration of Guam as a regional site for U.S. firm branch offices; and

1 **WHEREAS**, a competitive market for air transportation will significantly
2 reduce costs for U.S. taxpayers, investors, and travelers to Guam; and

3 **WHEREAS**, expected increases in national defense investment and
4 operations on Guam will increase demand for air transportation between Guam and
5 the United States; and

6 **WHEREAS**, federal support for U.S. air carriers on the Guam-U.S. route
7 can continue through other policies, such as restricting official and private
8 contractor travel and cargo shipments to flag carriers, in a manner similar to
9 domestic mail service; and

10 **WHEREAS**, the *sole* domestic commercial carrier serving the direct route
11 between Guam and the U.S. recently responded favorably to an official request for
12 lower air fares for military members and dependents to travel to and from Guam,
13 while simultaneously eliminating compassion fare discounts for medical
14 evacuation and accompanying family members, leaving one the impression that the
15 community of one hundred sixty-thousand (160,000) Guam residents is subsidizing
16 the travel costs of a nation of three hundred twenty million (320,000,000) on the
17 direct Guam-U.S. route subject to cabotage restrictions and domestic market
18 incentives; and

19 **WHEREAS**, the preference of U.S. flag carriers for North Pacific routes,
20 combined with denial of competitive access by foreign flag carriers to Guam on a
21 mid-Pacific route, has stifled rational development of Guam's airport, a federally-
22 developed modern facility, as a significant regional point, *except* for "technical
23 stops"; and

24 **WHEREAS**, the Department is authorized to grant commercial access by
25 foreign carriers between U.S. points, pursuant to Title 49 U.S.C. §40109(g), so
26 approval of a general policy of passenger cabotage between Guam and other U.S.
27 points within the customs zone of the United States would *not* diminish the

1 Department's continuing power to deny specific applicants for route authority in
2 the national or public interest, *nor* would it compromise standards of safety or
3 security; and

4 **WHEREAS**, requiring otherwise capable foreign applicants for cabotage
5 approval to first provide reciprocal access to their home markets may be irrelevant
6 or impractical, especially where geographical (as with Singapore) or market
7 (United Arab Emirates) features lack such specifically corresponding national
8 concessions; and

9 **WHEREAS**, formal comments opposing Guam's petition represent private
10 interests that stand to profit through the Department's denial of Guam's petition,
11 rather than the interest of the public, whose members seek competitive pricing
12 through effective relief from government-maintained market distortions that allow
13 significantly higher profit margins than in deregulated markets; and

14 **WHEREAS**, the persons whose interest is served by the Department's
15 decision are disaffected members of the traveling public and consumers in the
16 market served by the subject route, the majority of whom are represented by duly
17 elected members of the Twenty-Eighth Guam Legislature and the Governor of
18 Guam who support the petitioner in this matter; and

19 **WHEREAS**, the practical effect of a domestic air deregulation policy
20 cannot be accomplished by approving Guam's petition for exemption from residual
21 policy restrictions that continue to prevent effective competition for a term of only
22 two (2) years, and we object to paragraph 4 of findings and conclusions; and

23 **WHEREAS**, *I Mina'Bente Ocho Na Liheslaturan Guåhan* (the 28th Guam
24 Legislature) acknowledges the recommendation of the Department to exclude
25 certain countries from blanket approval, with whom negotiations regarding air
26 service are ongoing, to be in the public interest; and

1 **WHEREAS**, it is in the public interest for the Department to extend the
2 practical effect of a United States commitment to the United Nations regarding the
3 economic development and welfare of the inhabitants of Guam, specifically, the
4 United Nations Charter declaration regarding non self-governing territories at
5 Chapter XI, Article 73, as implemented by the General Assembly’s implementing
6 Resolution 1514(xv) of 14 December 1960, and more recently by General
7 Assembly Resolution A/RES/38/42 of 7 December 1983 with specific reference to
8 Guam, which calls upon the United States to “...remove the constraints which limit
9 growth in the economic development of the Territory, particularly with regard to...
10 the transportation industry;” and

11 **WHEREAS**, it is in the public interest for the Department to recognize and
12 consider Guam’s continuing political status as a non self-governing community,
13 which lacks effective national participation in establishing laws or administrative
14 procedures that affect it, including cabotage or exemptions thereto; and

15 **WHEREAS**, it is in the public interest for the Department to recognize and
16 consider the political significance of its Final Order in this matter as exhibiting the
17 Department’s role as a trustee and guardian of the territorial inhabitants’ welfare or
18 as a defender of colonial prerogative; and

19 **WHEREAS**, a formal objection to the tentative findings and conclusions
20 described and listed in the Order must be formally filed by August 23, 2006; now,
21 therefore, be it

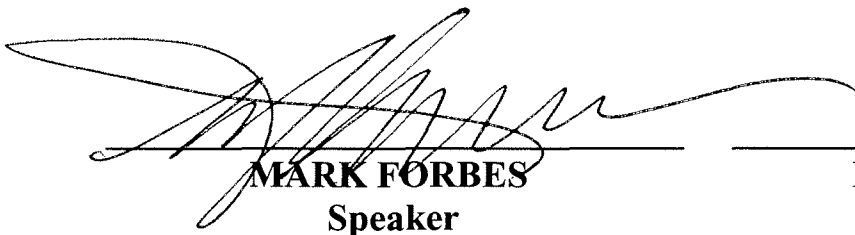
22 **RESOLVED**, that the Twenty-Eighth Guam Legislature expresses its
23 responsibility for the well-being and prosperity of Guam residents by objecting to
24 the tentative denial of passenger transfer activities and cabotage by the U.S.
25 Department of Transportation, and approval for a term of only two (2) years, in its
26 Order of August 4, 2006 to Guam’s Expanded Air Services petition Docket No.
27 OST-2006-23918; and be it further

1 **RESOLVED**, that *I Mina'Bente Ocho Na Liheslaturan Guåhan* (the 28th
2 Guam Legislature) requests the Board of Directors of the Antonio B. Won Pat
3 International Airport Authority, Guam to file a timely and supported objection to
4 the proposed denial of passenger transfer authority and cabotage, and approval for
5 only two (2) years, by the U.S. Department of Transportation; and be it further

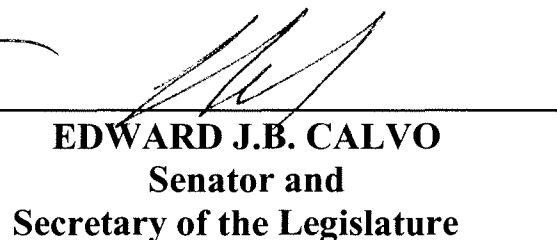
6 **RESOLVED**, that this Resolution be filed with the Office of the Secretary
7 of Transportation and served on other parties who have filed pleadings in the
8 matter of U.S. Department of Transportation Docket No. OST-2006-23918, as an
9 answer and objection to the Order of August 4, 2006, on behalf of the people of
10 Guam; and be it further

11 **RESOLVED**, that the Speaker certify, and the Secretary of the Legislature
12 attest to, the adoption hereof, and that copies of the same be thereafter transmitted
13 to the Honorable Frank F. Blas, Chairman, Board of Directors, Antonio B. Won
14 Pat International Airport Authority, Guam; to the Honorable Madeleine Z.
15 Bordallo, Guam's Delegate to Congress; to the United States Department of
16 Transportation; to those parties of record who have filed pleadings under Docket
17 No. OST-2006-23918; and to the Honorable Felix P. Camacho, *I Maga'lahaen*
18 *Guåhan* (Governor of Guam).

DULY AND REGULARLY ADOPTED BY *I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN* ON THE 22ND DAY OF AUGUST 2006.



MARK FORBES
Speaker



EDWARD J.B. CALVO
Senator and
Secretary of the Legislature